

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
1998 Biennial Regulatory Review –)	CC Docket No. 98-171
Streamlined Contributor Reporting)	
Requirements Associated with Administration)	
of Telecommunications Relay Service, North)	
American Numbering Plan, Local Number)	
Portability, and Universal Service Support)	
Mechanisms)	
)	
Telecommunications Services for Individuals)	CC Docket No. 90-571
with Hearing and Speech Disabilities, and the)	
Americans with Disabilities Act of 1990)	
)	
Administration of the North American)	CC Docket No. 92-237
Numbering Plan and North American)	NSD File No. L-00-72
Numbering Plan Cost Recovery Contribution)	
Factor and Fund Size)	
)	
Number Resource Optimization)	CC Docket No. 99-200
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170
)	

**COMMENTS OF THE
ASSOCIATION OF COMMUNICATIONS ENTERPRISES**

The Association of Communications Enterprises (“ASCENT”),¹ through undersigned

¹ ASCENT is a national trade association representing smaller providers of competitive telecommunications and information services. The largest association of competitive carriers in the United States, ASCENT was created, and carries a continuing mandate, to foster and promote the competitive provision of telecommunications and information services, to support the competitive communications industry, and to protect and further the interests of entities engaged in the competitive provision of telecommunications and information services.

counsel, and pursuant to Section 1.415 of the Commission's Rules,² hereby comments upon the *Further Notice of Proposed Rulemaking and Report and Order*, FCC 02-43, released in the above-referenced dockets on February 26, 2002 ("*FNPRM*"). Through the *FNPRM*, the Commission seeks, among other things, "more focused comment on whether to assess contributions based on the number and capacity of connections provided to a public network" and "invite[s] commenters to supplement the record developed in response to the *2001 Notice* with any new arguments or data regarding proposals to retain or modify the existing revenue-based system."³

ASCENT supports the Commission's attempts to modify the present USF support mechanism methodology in order to remove certain inequities in the operation of the present system. In keeping therewith, ASCENT would not oppose a Commission determination to adopt, consistent with the following comments, its tentative conclusion to move to a connection-based assessment mechanism. In the event the Commission ultimately determines to retain the present revenue-based assessment system, however, ASCENT strongly urges the Commission, in order to provide necessary relief to contributing carriers with declining revenue bases, to calculate the quarterly percentage contribution factor based upon revenue projections, with actual USF contributions to be submitted based upon current collected revenues.

² 47 C.F.R. § 1.415.

³ *FNPRM*, ¶ 2.

As the FNPRM makes clear, the Commission seeks comment on “a proposal to fundamentally reform the contribution assessment system.”⁴ Unlike the present assessment mechanism, where the bulk of USF contributions result from assessments contributed by interexchange carriers based upon end-user revenues,⁵ adoption of the Commission’s proposal to fund universal service programs by means of a connection-based assessment system would more closely effectuate the directive of Section 254 of the Communications Act . Pursuant to Section 254, “[a]ll providers of telecommunications services,” not merely or even predominantly interexchange carriers, are to “make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.”⁶

While Interexchange carriers would continue to support USF programs to the extent of “multiline business connections, such as special access, they provide to end users,”⁷ a significant improvement of a “connection-based assessment” over the existing assessment system would be that a broader base of telecommunications carriers – local exchange carriers (both incumbent and competitive carriers) and Commercial Mobile Radio Service (“CMRS”) providers – “would contribute to universal service based on the number and capacity of end-user connections they provide to the public network.”⁸ As the Commission notes, “the proposed connection-based assessment would have the effect of making local exchange carriers and mobile service providers

⁴ Id., ¶ 31.

⁵ *See, e.g., Id.*, ¶ 59. (“In the third quarter of 2001, interexchange carriers were responsible for approximately 63 percent of contributions.”)

⁶ § 254(b)(4). (emphasis added)

⁷ *FNPRM*, ¶ 36.

⁸ Id.

responsible for a larger portion of the universal service funding, the majority of which is currently paid by interexchange carriers.”⁹ ASCENT supports this broadening of the contributing entity

⁹

Id.

universe as conducive to the promotion of “specific, predictable and sufficient . . . mechanisms to preserve and advance universal service.”¹⁰

It is also appropriate, as the Commission proposes, that in calculating the number of connections provided to the public network, “the assessable unit would be defined as a facility that provides an end user with independent access to a public network, regardless of whether that connection is switched, packet-switched or a leased line.”¹¹ As the Commission has recognized, “[i]n the near future, xDSL-based technology and packet-switched networks may account for a large portion of the telecommunications facility.”¹² Given that the Commission is considering redirecting its USF funding mechanism in part because of “the accelerating development of new technologies,”¹³ it would be inconsistent with the Commission’s “primary goal . . . to ensure the stability and sufficiency of the universal service fund as the marketplace continues to evolve” to arbitrarily distinguish (and exempt) certain services on the basis of whether they are provided by means of a switched, packet-switched or leased lined connection to the public network. Neither would such an

¹⁰ Section 254(b)(5).

¹¹ *FNPRM*, ¶ 56.

¹² Deployment of Wireline Services Offering Advanced Telecommunications Capability (Third Report and Order), 14 FCC Rcd. 20912 (1999), ¶ 8.

¹³ *FNPRM*, ¶ 13.

arbitrary distinction be consistent with other aspects of the Commission's rules,¹⁴ or with other Commission funding mechanisms, which make no such distinction.¹⁵

While ASCENT does not conceptually oppose the adoption of a connection-based USF assessment methodology, one major adjustment, the elimination of the massive subsidies of large corporate users under the proposed "tier" assessment scheme (discussed in more detail later in these comments), is essential to eliminate present inconsistencies with the dictates of Section 254. Certain other clarifications, however, are also in order. One such clarification is necessary in connection with the Commission's inquiry concerning "how to apply the definition of 'connection' proposed above for purposes of determining assessments on multi-line business connections."¹⁶

¹⁴ See, e.g., 47 C.F.R. § 1.7001, "Scope and content of filed reports" (defining facilities-based providers as entities providing broadband services without regard to whether such services are provided via "Unbundled Network Elements (UNEs), special access lines, and other leased lines and wireless channels); 47 C.R.R. § 43.51, "Contracts and Concessions" (directing the filing operating or other agreements with foreign carriers by carriers seeking to begin providing switched voice, telex, telegraph or packet-switched services).

¹⁵ See, e.g., 47 C.F.R. § 64.604, "Mandatory minimum standards" (mandating the contribution to the TRS Fund by carriers providing "interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, satellite, intralata, international and resale services.")

¹⁶ FNPRM, ¶ 56.

In ASCENT's opinion, in considering what constitutes a "connection to the public network," the relevant focus must be the precise functionality the end user has requested and has had allocated to its use. As the Commission is aware, internal operational decisions will affect a particular carrier's decision as to the most efficient means of satisfying a customer's telecommunications needs. For example, such internal issues may sometimes render it more economically efficient for a carrier to bring in a DS-1, with an equivalent of 24 voice grade lines, to connect a small multi-line business end-user to the public network even though the customer has only ordered – and will only use and pay for – 12 voice grade connections. It is clear that under this scenario, the customer is not receiving 24 "connections" to the public network. Thus, it would be clearly inequitable to assess "per-connection" contributions on more than the 12 network connections actually ordered and utilized by the customer. It is especially important to avoid burdening small multi-line business end-users with excessive USF contributions since, unlike large corporate users which may be positioned to demand (and specifically negotiate for) higher capacity DS-1 or DS-3 connections, most small multi-line business end-user customers have no ability to influence a carrier's decision to provide either 12 voice grade connections, for example, or one DS-1 to the end-user's premises. Furthermore, any policy to the contrary would have a chilling effect on the willingness of carriers to invest in the deployment of facilities which might for some period of time not be actively utilized by a multi-line business end-user. Imposing a USF "per-connection" assessment on such carriers would thus hinder the Commission's goal "to encourage rapid, facilities-based entry by multiple firms that can bring increased capacity to the market."¹⁷ To avoid this

¹⁷ Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996 (Third Report), CC Docket No. 98-146 (rel. Feb. 2, 2002), ¶ 135.

result, the Commission should make clear that for purposes of assessing a USF “per-connection” contribution, a “connection to the public network,” is only that precise functionality which the multi-line business end-user has ordered and is using.

Similarly, in order to promote “the widespread deployment of advanced services [which] has become a central communications policy goal for the Commission,”¹⁸ another necessary clarification is required in connection with the Commission’s consideration of under what circumstances a connection to the public network should be considered “independent.” As the Commission observes, defining “independent access” to the public network as a connection which “does not require the presence of any other activated end-user connection to provide access”¹⁹ might encompass both “line-shared or line-split voice-band service and digital subscriber line (DSL) service provided over the same loop,” potentially leading to the result that “because each allows stand-alone access to a public network,” both should be assessed a per-connection contribution.²⁰ Unfortunately, assessing two per-connection assessments under these circumstances would indirectly bring about the same chilling effect with respect to the deployment of advanced services and must thus be avoided.

¹⁸ Id.

¹⁹ *FNPRM*, ¶ 42.

²⁰ Id.

As the Commission is aware, few carriers are in a position to absorb USF assessments and thus, must pass through such assessments to their end users.²¹ The prospect of incurring a USF assessment from not only a voice service provider but also from a separate advanced services provider may legitimately cause an end-user to choose to do business with the incumbent provider, which is positioned to provide both voice and advanced services to the customer through a single “unsplit” line. An incumbent providing both services to the end-user will incur – and thus pass along – only a single USF assessment, disadvantaging both competitive voice and DSL providers vis-a-vis the incumbent. The Commission should not allow the USF contribution mechanism unintentionally to become a vehicle for certain carriers to gain a competitive advantage over other carriers, especially where that competitive advantage would be based not upon any differences in service quality or innovation but upon a mere regulatory quirk.

As the Commission has noted, “the availability of shared-line access will encourage data carriers to continue investing in network facilities such as DSLAMs, interoffice networks, and backbone facilities, and should promote innovation in xDSL technologies.”²² The most expeditious means of achieving this result, which will simultaneously eliminate the potential imposition of a double USF assessment on end-users, would be to limit to a single per-connection assessment any line-shared or line-split arrangement. As the Commission has observed, “a connection-based assessment would . . . benefit[] both contributors and customers . . . because only one entity would

²¹ See generally, *Id.*, ¶¶ 89-109, for the Commission’s discussion of the various means by which carriers recover USF contributions from their end-users.

²² Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (Third Report and Order), 14 FCC Rcd. 20912 (1999), ¶ 57.

contribute for a single connection under the connection-based assessment.”²³ While the Commission could attain this result by arbitrarily designating either the voice provider or the advanced services provider as the USF contributor in a line-shared or line-split situation, ASCENT would suggest that a more equitable solution, which would provide the predictability of support level sought by the Commission while also protecting the end-user from excessive contribution assessments, would be for the two carriers to share on a pro rata basis the single USF assessment.

Far and away the most serious flaw in the Commission’s proposal to introduce a per-connection assessment to fund USF programs, however, is the impact which the tiered assessment system will visit upon small business end-users and the carriers which serve them. The problem is not so much with the tiered structure itself but rather with the proposed assessment amounts at each of those levels. The arbitrary levels at which the proposed assessments are set essentially result in a blatant subsidization of USF assessments which would otherwise be paid not only by residential end-users but also by large multi-line business end-users. That subsidy would come entirely from excessive assessments imposed upon small multi-line business end-users and the carriers which serve them. The rank and file of ASCENT’s membership consists of telecommunications service providers which serve residential and primarily small- to -medium sized business customers. The impact of the Commission’s proposed “tier” assessments will fall exclusively upon such customers.

ASCENT is aware that residential rates have historically been subsidized at the state level in keeping with policy judgments which deemed such low residential rates to best serve the goals of universal service. The concept that business users -- all business users -- will be subjected to slightly higher rates in order to implement this societal goal is a long-standing one for which at least a facial case could be made. However, it is an intolerable solution for the Commission, based upon the economically unsupported suggestion of certain carriers which serve predominantly large

²³ *FNPRM*, ¶ 63.

multi-line business end-users, to allow the USF funding scheme to be used to invoke the fundamental inequity of having small multi-line business end-users fund per-line USF contributions at the level of not only 400% that assessed upon residential end-users but also close to 500% of the USF contribution assessed upon an end-user utilizing a DS-1 with 24 voice grade equivalent lines, and nearly 1,700% the contribution assessed upon end-users utilizing a DS-3 with 672 voice grade equivalent lines.

The Commission's per-connection assessment proposal contains two components. Pursuant to the initial component, "interstate telecommunications providers would contribute \$1 per month for each residential, single-line business and mobile wireless connection to a public network."²⁴ Although the Commission declines to characterize its per-connection proposal as a per-line assessment regime, the structure of this initial component demonstrates it to be just that with not only residential, single line business end-users, wireless customers and small multi-line business users contributing based upon a specific dollar amount *per line*. From there, the Commission moves to its second component, proposed by the USF Coalition, with WorldCom, Inc. providing the precise tier contribution levels tentatively adopted by the Commission.²⁵

²⁴ Id., ¶ 35. Providers of paging service would pay less, ostensibly as a result of the "limited functionality" of paging service. Id., ¶ 39.

²⁵ Id., footnote 123. The USF Coalition is composed of AT&T Corp., e-commerce Telecommunications Users Group, WorldCom, Inc., and the Ad Hoc Telecommunications Users Committee. Footnote 123 also references generally WorldCom Comments. Indeed, WorldCom's comments submitted June 25, 2001 in the referenced dockets "proposes the following simple three-level system for facilities other than traditional switched access lines" and then recites the Tier 1 base charge, Tier 2 5x base charge and Tier 3 40x base charge which is proposed verbatim in the *FNPRM*, ¶ 52. Unfortunately, WorldCom's comments provide no logical basis upon which the Commission could justify its abrupt abandonment of the de facto per-line assessment mechanism set up in the initial component of the per-connection proposal. Worse yet, WorldCom provides no logical basis for assessing a connection with a 24 voice grade equivalency only five times the USF contribution to be borne by each individual line utilized by a multi-line business end user, or for assessing a connection with a 672 voice grade equivalency with only 40 times the USF contribution to be borne by each individual line utilized by a multi-line business end user. The Commission, unfortunately, carries through this gross subsidization of large business end-user USF contributions to the *FNPRM* without providing any rational basis for adopting these clearly arbitrary levels.

Pursuant to the USF Coalition’s “tiered” assessment mechanism, “connections provided to end users at speeds of less than 1.544 MegaBits Per Second” would be assessed a “base factor for each connection . . . of \$4.00.”²⁶ By adopting the USF Coalition’s cut-off of the connection capacity at this level, the Commission not only extends the *de facto* per-line assessment through the first “tier,” it in effect establishes “Tier 1” as the USF contribution level at which multi-line business end users taking individual voice grade lines in service will be assessed. Thus, any business end-user with more than one line in service will be assessed a per-line USF contribution of \$4.00. As noted above, this represents a 400% increase over the per-line USF assessment which will be contributed by residential end-users, single-line business end-users and mobile wireless end-users. Just so the Commission is clear on this point, Tier 1 assessment means that a small business with 10 voice grade lines will contribute \$40 monthly to USF mechanisms.

²⁶

FNPRM, ¶ 52.

Moving on to Tiers 2 and 3, the Commission moves inexplicably to something other than a per-line assessment. At the “Tier 2” level, “connections with speeds of equal to or greater than 1.544 Mbps but less than 45 Mbps,” roughly the equivalent of a DS-1, will be assessed a USF contribution of 5 times the \$4.00 base assessment. Thus, a larger multi-line business end-user, one for whom it makes economic sense to subscribe to a DS-1 with an equivalent of 24 voice grade lines will contribute \$20 monthly to USF mechanisms. It is difficult to comprehend how the Commission will defend its proposed tier assessment system as consistent with Section 254's directive that “[a]ll providers . . . make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service”²⁷ when a carrier serving a small multi-line business end-user is assessed \$4.00 per line for each of that customer’s 10 lines at the same time a competing carrier serving a larger multi-line business end-user is assessed \$0.83 per line for each of that customer’s 24 lines provided via a DS-1.²⁸ At this level of contribution, a large multi-line business end-user is contributing less to fund USF programs than a residential consumer is. A gross subsidy of this magnitude to large multi-line business end-users is bad enough. Unfortunately, at the Tier 3 level, the subsidy to large business users becomes even more pronounced.

Pursuant to the USF Coalition proposal tentatively adopted by the Commission, at the Tier 3 level, “connections with speeds of 45 Mbps or higher . . . would be assessed an amount

²⁷ Section 254(b)(4).

²⁸ This tremendous inequality in assessment amount is all the more inappropriate when the Commission remembers that it is entirely possible that the 10 lines subscribed to by the smaller multi-line business end user and assessed at the per-line \$4.00 amount may well be delivered via a DS-1 brought into the customer’s premises while the 24 voice grade equivalent lines subscribed to by the larger multi-line business end user and assessed at a non-per-line \$20.00 amount is also delivered via a technologically identical DS-1 brought into that customer’s premises. Given this possibility, there could be no conceivable technological justification for charging a smaller customer a larger assessment for less service capability.

equal to 40 times the base factor.”²⁹ As the Commission is aware, this is roughly the capacity of a DS-3, with a 672 voice grade equivalency.³⁰ Only a very large multi-line business end-user can make economic use of a DS-3. And yet these very large corporate users, those entities arguably most well-suited to contribute to the funding of USF programs, will contribute on a monthly basis less than 24 cents per each of the DS-3's 672 voice grade equivalents. Less than 24 cents! Thus, under the USF Coalition tier assessment proposal tentatively adopted by the Commission, a small multi-line business end-user will pay almost 1700% more per line in USF support than will a large multi-line business end user subscribing to a DS-3, and an individual residential consumer will pay 400% of a Tier 3 carrier's proportionate assessment.

It is no coincidence that the assessment amount suggested by the USF Coalition for DS-3 subscribers creates the largest subsidy for the largest multi-line business end-user customers. As the Commission is well aware, the financial circumstances of most carriers preclude them from absorbing USF contributions made on behalf of their end-user customers. There is, however, one notable exception to this rule. Large corporate users are particularly attractive customers and, given the expenditures for telecommunications services at play, are frequently willing to put significant time and effort into negotiating specifically-tailored contractual arrangements with their telecommunications carriers. It is these large corporate users, sometimes those desirous of subscribing to DS-1s, but more frequently those for whom DS-3s are economically a wise choice, who are most resistant to the obligation to pay pass-throughs of assessments such as USF contributions. As a result, in order to win and retain such large multi-line end-user customers,

²⁹ *FNPRM*, ¶ 52.

³⁰ Even as it has tentatively adopted the USF Coalition's tier capacity cut-off levels, the Commission observes that certain DS-3s have a capacity of 44.7 Mbps, which would bring such connections within the \$20.00 monthly assessment amount. The absurdity of the tiered assessment approach is most clearly illustrated here. In the case of a DS-3 with a capacity of 44.7 Mbps, a carrier would pay per each voice grade equivalent circuit slightly less than three cents per month.

carriers are frequently willing to contractually bind themselves to refrain from passing through such assessments. Thus, the more extreme the subsidy in USF contributions assessed upon high-capacity connections, the lower the contributions which the telecommunications carriers themselves will be obligated to contribute. Clearly, by sanctioning this result, the Commission would be undermining the stability and vitality of its USF support mechanisms.

The Ad Hoc Telecommunications Users Committee, (“Ad Hoc”), a strong supporter of the USF Coalition proposal,³¹ apparently arguing in favor of a higher residential and single-line business USF assessment has argued that “no party has offered any evidence that residential and single line business customers cannot afford to contribute the same amount to the universal service fund on a per-line basis as multi-line business customers,”³² and criticized “WorldCom’s proposed charge of \$1.00 per month per residential access line [as] quite literally pulled out of thin air. No support, documentation or explanation is offered for that value or any other value.”³³ The exact same criticism can legitimately be leveled at the USF Coalition’s tiered assessment proposals of a \$4.00 per-line multi-line end-user base contribution, a \$20.00 non-per-line DS-1 contribution, and a \$160.00 non-per-line DS-3 contribution.

Continuing its argument in favor of increased individual consumer participation in USF funding, Ad Hoc asserts that “[t]he Commission has not established the appropriate criteria necessary to evaluate whether a charge for one class of customer is ‘affordable’ while not being

³¹ See, e.g., USF Coalition *Ex Parte* submissions in the subject dockets filed February 6, 2002, December 4, 2001, and November 9, 2001, documenting the participation of Ad Hoc representatives in Commission meetings advocating adoption of the USF Coalition proposal as well as urging the establishment of a flat-rate, per-line assessment mechanism.

³² Reply Comments of Ad Hoc, submitted in the referenced dockets on July 9, 2001, p. iv.

³³ Id., p. 14.

‘affordable’ for another class of customers.”³⁴ Again, the USF Coalition proposal suffers from the same shortcoming, and nothing in the FNPRM even hints at an economic or social policy justification which could support the recovery of the smallest proportionate USF contribution from those entities most able to afford USF funding expenditures. Certainly nothing in the record of this proceeding can demonstrate that mammoth multi-line business end-users such as General Motors and American Express (or the telecommunications carriers which serve such customers, in the event they choose not to pass through such USF assessments) cannot “afford” to participate equitably in a Congressionally mandated Universal Service funding obligation.

It is clearly unacceptable for the Commission to sanction a USF contribution mechanism which by Congressional directive must be funded by “equitable and nondiscriminatory contribution” from all telecommunications carriers providing interstate telecommunications services but which in effect visits the lion’s share of the funding obligation on carriers serving predominantly small multi-line business end-user customers. The answer, however, is not to raise the contribution amounts of residential and single-line business end-users. Rather, the answer is to remove the subsidies in the proposed Tier assessment system by recognizing the *de facto* per-line contribution scheme which exists up to and through the Tier 1 level and extending the same treatment to Tiers 2 and 3. This will result in a more equitable proportionate funding obligation shared by small, medium and large multi-line business end-users alike.

³⁴

Id.

The increased funding base which will result from recovery of a more equitable contribution from the larger carriers once the blatant subsidies in the tier assessment proposal are removed would promote the Commission's ability to safeguard the "specific, predictable and sufficient . . . mechanisms to preserve and advance universal service."³⁵ And it will allow the Commission to do so while at the same time reducing the presently outrageous \$4.00 per line assessment which would otherwise be extracted from small multi-line business end-users. Indeed, by more rationally assessing contribution amounts on all multi-line business customers, it may even be possible for the Commission to reduce residential and single-line business USF assessments below the proposed \$1.00 level.

³⁵ Section 254(b)(5).

Even after adjusting the contribution amounts to more rationally and equitably spread the overall USF funding obligation over all telecommunications carriers providing interstate telecommunications services, there is still the issue of “whether [a connection-based assessment] can be implemented immediately, or whether a transition period would be necessary.”³⁶ While recognizing on the one hand that any transition period “may delay realization of the potential benefits of a new, connection based approach,” the Commission also recognizes that a transition “might enable contributors and USAC to prepare for implementation of the new mechanism . . . [and] provide additional time for contributors to update their billing and accounting systems to accommodate changes.”³⁷ Indeed, a “12-month transition period for implementation of a connection-based assessment for multi-line business connections” has already been proposed by the USF Coalition.³⁸ ASCENT agrees that a certain transition period may be appropriate; however, inasmuch as the Commission has yet to provide a rational basis for the proposed tiered assessments on multi-line business end-users (which it must do before proceeding further), one thing is certain. Actual implementation of the per-connection assessment regime is clearly some significant time off in the future.

Meanwhile, contributing carriers must continue to deal with the present end-user revenue-based USF assessment methodology. As the Commission is well aware, carriers with decreasing revenue bases must calculate USF contributions based upon stale and inflated historical revenue data, leading to the inequitable result that such carriers must pay an effectively higher

³⁶ *FNPRM*, ¶ 83. Indeed, as the FPNRM notes, a 12-month transition period has already been proposed by the USF Coalition.

³⁷ *Id.*

³⁸ *Id.*, ¶ 83.

percentage USF contribution than their competitors with stable or increasing revenues. Compounding this inequity, the record in this proceeding demonstrates that at the same time carriers with declining revenues are paying (and oftentimes recovering from their end-user customers) disproportionately high assessments, new market entrants – including the former Bell Operating Companies which are just beginning to provide intraLATA, in-region long distance in states following receipt of Section 271 approval – as well as those carriers with rapidly increasing

revenues, are benefitting from a financial advantage commensurate with their pace of growth by contributing less than their actual collected end-user revenues would otherwise require.

The Commission recognizes that “modify[ing] the current system to rely on projected revenue data . . . could help to address the concerns of some commenters regarding the impact on certain contributors of reliance on historical revenues and make contribution assessments more reflective of current market conditions.”³⁹ Likewise, “[a] current-revenue assessment methodology could have similar benefits to a projected-revenue assessment methodology.”⁴⁰ Given the need for further Commission analysis of the tier contribution structure, even if the USF Coalition’s transitional proposal is adopted, it is unlikely that a per-connection assessment mechanism could become operational in less than 18 months, with a more likely time frame exceeding two years. The Commission should not institutionalize the detrimental effect of the current backward-looking assessment scheme on carriers with declining revenues for that period of time. Rather, it is imperative that the Commission immediately address the time-lag problem inherent in the current revenue-based assessment system by adopting on an accelerated basis the proposal presently pending pursuant to which calculation of universal service contributions would be predicated upon projected or current, rather than historic, revenues. In the event the Commission ultimately determines to restructure the USF contribution mechanism to provide for a connection-based methodology, this modified assessment methodology -- and fashions a recovery mechanism which will satisfy the dictates of Section 254 -- should continue through any transition period.

³⁹ Id., ¶ 85.

⁴⁰ Id., ¶ 87.

Consistent with the foregoing, ASCENT urges the Commission to modify the per-assessment contribution mechanism propounded by the USF Coalition to eliminate the present conflicts with Section 254's mandate that contributions to USF programs must be "equitable and nondiscriminatory" among all carriers. Specifically, the Commission must create a rational economic basis for assessments to be imposed upon multi-line business end-users by removing the massive subsidies to large corporate users and more ratably spread USF funding obligations over the contributing carrier universe. The Commission must also act to remedy the anticompetitive effect of the present revenue-based assessment regime on carriers with decreasing revenue bases by moving to a current or projected revenue assessment basis until a per-connection contribution regime ultimately becomes effective.

Respectfully submitted,

**ASSOCIATION OF COMMUNICATIONS
ENTERPRISES**

By: _____/s/_____
Charles C. Hunter
Catherine M. Hannan
HUNTER COMMUNICATIONS LAW GROUP
1424 Sixteenth Street, N.W., Suite 105
Washington, D.C. 20036
(202) 293-2500

April 23, 2002

Its Attorneys